

**UNITED STATES DISTRICT COURT
DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

Re: ECF No. 24035

(Jointly Administered)

**RESPONSE OF THE FINANCIAL OVERSIGHT AND MANAGEMENT BOARD TO
THE MOTION TO COMPLY WITH ORDER TO REQUEST
INFORMATION AND DOCUMENTS**

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Building Authority ("PBA") (Bankruptcy Case No. 19-BK-5523-LTS). (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

To the Honorable United States District Court Judge Laura Taylor Swain:

The Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as sole Title III representative of the Puerto Rico Highways and Transportation Authority (“HTA” or the “Debtor”), pursuant to Section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² respectfully submits this response (the “Response”) to the *Motion to Comply with Order to Request for Information and Documents* [Case No. 17-3283, ECF No. 24035]³ (the “Motion”), filed by plaintiffs (the “Plaintiffs”) regarding litigations captioned *Nestor Rivera Colon, et al. v. Municipio de Caguas, et al.*, Case No. 2015-1048 (the “Federal Court Litigation”) and *Nestor Rivera Colon, et al. v. Municipio de Caguas, et al.*, Case No. EDP-2017-0334 (the “Local Court Litigation”), and in support of the Response, hereby states as follows:

BACKGROUND

1. On April 1, 2020, the Court entered the *Order (A) Authorizing Alternative Dispute Resolution Procedures, (B) Approving Additional Form of Notice, and (C) Granting Related Relief* [ECF No. 12576] (the “ADR Order”). On December 20, 2022, the Court entered the *Order Granting Motion of the Financial Oversight and Management Board for Puerto Rico to Amend Alternative Dispute Resolution Procedures* [ECF No. 23113] (the “Amended ADR Order”).

2. The Amended ADR Order authorizes the Commonwealth of Puerto Rico (the “Commonwealth”), HTA, the Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”), the Puerto Rico Electric Power Authority (“PREPA”), and the Puerto Rico Public Buildings Authority (“PBA,” and together with the Commonwealth,

² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

³ Unless otherwise stated, all ECF Nos. shall refer to the docket in Case No. 17-3283.

HTA, ERS, and PREPA, the “Debtors”) to resolve certain claims using Court-approved alternative dispute resolution procedures (the “ADR Procedures”).

3. Pursuant to the ADR Procedures, on January 26, 2023, the Debtors filed the *Twenty-Ninth Notice of Transfer of Claims to Alternative Dispute Resolution* [ECF No. 23394] (the “Twenty-Ninth ADR Transfer”) transferring, among other claims, Proof of Claim No. 179755 (the “Claim”) into the ADR Procedures. The Claim, which Mr. Nestor Rivera Colon filed on April 4, 2022, asserts \$16,800,000.00 in liabilities against HTA purportedly arising from “violation of state and federal environmental laws” that purportedly harm the peace, enjoyment, and value of Mr. Rivera Colon’s property. The Claim does not attach any supporting documentation or identify any associated litigations or legal actions.

4. Because the Debtors lacked information sufficient to understand the nature and basis of the liabilities asserted in the Claim, on March 27, 2023, the Debtors sent Mr. Rivera Colon an Information Request pursuant to paragraph 2(f) of the Amended ADR Order. A copy of the as-served request regarding the Claim is attached hereto as Exhibit A (the “Information Request”). As shown on Exhibit A, the Information Request demanded a response by April 20, 2023, sought information regarding the basis of the Claim, including the identification of any associated litigations or legal actions, and listed the return address for the response.

5. On April 19, 2023, Plaintiffs filed the Motion “to provide Information and Documents about” the Federal Court Litigation and the Local Court Litigation. Motion at 1-2. The Motion attaches fifty-four exhibits – the majority of which are entirely in the Spanish language, unaccompanied by English translations – relating to the foregoing litigations, and it requests the Court “approve the evidentiary documents” as “the basis for the estimated amount for the” Claim. *Id.* at 7-10.

RESPONSE

6. Although the Motion is styled as a motion to comply, the substance of the Motion and the relief it requests make clear the Motion is a response to the Information Request. The Motion does not reference any Court order with which it purportedly complies, the Motion's title references the "Request for Information and Documents," and the Motion was filed on the date responses to the Information Request were due. *Id.* at 1.

7. The Debtors will, accordingly, construe the Motion and its exhibits as a response to the Information Request, and will evaluate the materials submitted in an effort to develop an appropriate settlement offer to resolve the Claim.⁴

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⁴ The Motion does not set forth any factual or legal basis for the Court to grant any other or further relief. Accordingly, in the event the Court construes the Motion to seek additional relief, the Motion should be denied. The Debtors further note that the Motion does not comply with Local Rule 5(c), which requires "[a]ll documents not in the English language which are presented or filed, whether as evidence or otherwise, must be accompanied by a certified translation into English" (L.R. 5(c)), or with the Case Management Procedures, which require that (i) a hearing notice be filed and served concurrently with all pleadings, (*Sixteenth Amended Case Management Procedures* [ECF No. 20190-1] § I.C), and (ii) all pleadings requesting relief must be accompanied by a proposed order (*id.* § I.I).

Dated: May 3, 2023
San Juan, Puerto Rico

Respectfully submitted,

/s/ Brian S. Rosen

Martin J. Bienenstock (*pro hac vice*)

Brian S. Rosen (*pro hac vice*)

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/s/ Hermann D. Bauer

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Debtors*

EXHIBIT A

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et al.*,

Debtors.¹

PROMESA

Title III

No. 17 BK 3283-LTS

(Jointly Administered)

ALTERNATIVE DISPUTE RESOLUTION INFORMATION REQUEST

Service Date: **Monday, March 27, 2023**

Designated Claimant(s): **Rivera Colon, Nestor**

Address: **FRG Law Bufete Francisco R. Gonzalez 1519 Ponce de Leon Ave. Suite 805 San Juan PR 00909**

Designated Claim Number(s): **179755**

Amount(s) Stated in Proof(s) of Claim: **\$16,800,000.00**

RESPONSE DEADLINE: Thursday, April 20, 2023

This Information Request only applies to the Designated Claim Number listed above. You should read the Notice carefully and discuss it with your attorney. If you do not have an attorney, you may wish to consult one.

¹ The Debtors in these Title III Cases, along with each Debtor's respective Title III case number and the last four (4) digits of each Debtor's federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the "Commonwealth") (Bankruptcy Case No. 17 BK 3283- LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation ("COFINA") (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority ("HTA") (Bankruptcy Case No. 17 BK 3567- LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico ("ERS") (Bankruptcy Case No. 17 BK 3566- LTS) (Last Four Digits of Federal Tax ID: 9686); (v) Puerto Rico Electric Power Authority ("PREPA") (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747); and (vi) Puerto Rico Public Buildings Authority ("PBA", and together with the Commonwealth, COFINA, HTA, ERS, and PREPA, the "Debtors") (Bankruptcy Case No. 19-BK-5532-LTS) (Last Four Digits of Federal Tax ID: 3801) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

If you have any questions, please contact Kroll at (844) 822-9231 (toll free for U.S. and Puerto Rico) or (646) 486-7944 (for international callers), available 10:00 a.m. to 7:00 p.m. (Atlantic Standard Time) (Spanish available).

Why am I receiving this Information Request? You have filed the claim(s) referenced above (which is referred to in this Notice as the “Designated Claim(s)”) in the Puerto Rico Highway and Transportation Authority’s Title III case. The Puerto Rico Highway and Transportation Authority (the “Debtor”) submitted the Designated Claim in the Title III case to alternative dispute resolution in the *Twenty-Ninth Notice of Transfer of Claims to Alternative Dispute Resolution* on January 26, 2023 [ECF No. 23394], pursuant to the procedures (the “ADR Procedures”) established by the *Order (A) Authorizing Alternative Dispute Resolution Procedures, (B) Approving Additional Form of Notice, and (C) Granting Related Relief*, entered by the United States District Court for the District of Puerto Rico (the “Title III Court”) on April 1, 2020 [ECF No. 12576-1] the *Order Granting Motion of the Financial Oversight and Management Board for Puerto Rico to Amend Alternative Dispute Resolution Procedures* [ECF No. 23113-1] entered by the Title III Court on December 20, 2022. **Please review the ADR Procedures carefully. The ADR Procedures are available online at <https://cases.ra.kroll.com/puertorico/>.**

An **Information Request** is included below. Pursuant to the ADR Procedures, Debtor is requesting additional documentation and information related to the Designated Claim. You must respond to the Information Request providing the requested documentation and information by the date identified as the Response Deadline. *See* Section 2(f) of the ADR Procedures.

You Must Respond to This Information Request. You must return this Information Request to Alvarez and Marsal with the requested documentation and information by no later than the Response Deadline listed above.

Information Request. Debtor requests that you provide the following related to Designated Claim No. **179755** : any documents responsive to the requests for documents, written responses to the requests for information, and any documents you possess supporting your written responses to the requests for information.

Information regarding Information Requests is available in Section 2(f) of the ADR Procedures.

Please attach to this form your written responses to the requests for information and the requested documentation.

YOU MUST RESPOND TO THE INFORMATION REQUEST AND RESPOND TO ANY OTHER APPLICABLE ITEMS IN THE REMAINDER OF THE FORM

REQUESTS FOR INFORMATION AND DOCUMENTS

- 1. Please provide information regarding the basis of the case. What are the facts underlying the case?**
- 2. Please provide any documentation you have relating to the case.**
- 3. What is the amount that you are claiming? Please provide the basis for the estimated amount owed for your claim.**
- 4. What is the current status of the case?**
- 5. Are you represented in the case? If so, who is your attorney?**

*Provide all documents on which you rely in support of your answers to these requests for information regarding your Designated Claim. You **MUST** send all such information and documentation to Alvarez and Marsal.*

**RETURN YOUR COMPLETED NOTICE AND ANY SUPPLEMENTAL INFORMATION
IN A COUNTEROFFER TO THE FOLLOWING ADDRESS BY THURSDAY, APRIL
20, 2023**

Alvarez and Marsal
C/O Nikki Vander Veen
540 West Madison Street, 18th Floor
Chicago, IL 60661

[Signature of the Designated
Claimant's Authorized Representative]

By: _____
[Printed Name]

[Signature of the Designated
Claimant's Authorized Representative]

By: _____
[Printed Name]

**TRIBUNAL DE DISTRITO DE LOS ESTADOS UNIDOS
PARA EL DISTRITO DE PUERTO RICO**

En el caso:

LA JUNTA DE SUPERVISIÓN Y
ADMINISTRACIÓN FINANCIERA PARA PUERTO
RICO,

como representante del

ESTADO LIBRE ASOCIADO DE PUERTO RICO, y
otros,

Deudores.²

PROMESA

Título III

No. 17 BK 3283-LTS

(Administrados en forma
conjunta)

SOLICITUD DE INFORMACIÓN DE RESOLUCIÓN ALTERNATIVA DE CONFLICTOS

Fecha de Servicio: **27 de marzo de 2023**

Reclamante(s) designado(s): **Rivera Colon, Nestor**

Dirección: **FRG Law Bufete Francisco R. Gonzalez 1519 Ponce de Leon Ave. Suite 805 San Juan PR 00909**

Número(s) de reclamo(s) designado(s): **179755**

Cantidad(es) indicada(s) en la(s) prueba(s) de reclamo: **\$16,800,000.00**

FECHA LÍMITE DE RESPUESTA: jueves, 20 de abril de 2023

² Los Deudores en estos casos iniciados al amparo del Título III, junto con el número de caso respectivo de cada Deudor y los últimos cuatro (4) dígitos del número de identificación contributiva federal de cada Deudor, según corresponda, son (i) El Estado Libre Asociado de Puerto Rico (el “Estado Libre Asociado”)(Caso de Quiebras Núm. 17 BK 3283-LTS) (últimos cuatro dígitos del número de identificación contributiva federal: 3481); (ii) la Corporación del Fondo de Interés Apremiante de Puerto Rico (“COFINA”) (Caso de Quiebras Núm. 17 BK 3284- LTS) (últimos cuatro dígitos del número de identificación contributiva federal: 8474); (iii) la Autoridad de Carreteras y Transportación de Puerto Rico (“HTA”) (Caso de Quiebra Núm. 17 BK 3567-LTS) (últimos cuatro dígitos del número de identificación contributiva federal: 3808); (iv) Sistema de Retiro de los Empleados del Gobierno del Estado Libre Asociado de Puerto Rico (“ERS”) (Caso de Quiebra Núm. 17 BK 3566-LTS) (últimos cuatro dígitos del número de identificación contributiva federal: 9686); (v) Autoridad de Energía Eléctrica de Puerto Rico (“PREPA”) (Caso de Quiebra Núm. 17 BK 4780-LTS) (últimos cuatro dígitos del número de identificación contributiva federal: 3747); y (vi) la Autoridad de Edificios Públicos de Puerto Rico (“PBA”, y junto con el Estado Libre Asociado, COFINA, HTA, ERS, y PREPA, los “Deudores”) (Caso de Quiebras Núm. 19 BK 5532-LTS) (últimos cuatro dígitos del número de identificación contributiva federal: 3801) (los casos al amparo del Título III figuran como números de Caso de Quiebra debido a limitaciones de programación).

Esta solicitud de información sólo se aplica a los números de reclamaciones designadas mencionados anteriormente. Lea el aviso detenidamente y discútalos con su abogado. Si no tiene un abogado, puede consultar con uno.

Si tiene alguna pregunta, comuníquese con Kroll al (844) 822-9231 (llamada gratis para EE. UU. y Puerto Rico) o (646) 486-7944 (para llamadas internacionales), disponible de 10:00 a.m. a 7:00 p.m. (Hora estándar del Atlántico) (español disponible).

¿Por qué estoy recibiendo esta Solicitud de Información? Usted ha presentado su(s) reclamo(s) como se menciona arriba (el/los “Reclamo(s) Designado(s)”) en el caso del Título III de la Autoridad de Carreteras y Transportación de Puerto Rico. La Autoridad de Carreteras y Transportación de Puerto Rico (el “Deudor”) sometió el Reclamo Designado en el caso del Título III a resolución alternativa de conflictos en el *Vigésima Novena Notificación de Transferencia de Reclamos a Resolución Alternativa de Disputas* el 26 de enero de 2023 [ECF Núm. 23394], de conformidad con los procedimientos (los “Procedimientos de RAC”) establecidos por la *Orden para (A) Autorizar Procedimientos Alternativos de Resolución de Conflictos, (B) Aprobar Forma Adicional de Aviso, y (C) Otorgar Remedio Relacionado*, emitida por el Tribunal de Distrito de los Estados Unidos para el Distrito de Puerto Rico (el “Tribunal del Título III”) el día 1 de abril de 2020 [ECF No. 12576-1] y por la *Orden Autorizando la Moción para Modificar los Procedimientos Alternativos de Resolución de Disputas* [ECF Núm. 23113-1] emitida por el Tribunal del Título III el día 20 de diciembre de 2022. **Por favor, revise los Procedimientos de RAC cuidadosamente. Los Procedimientos de RAC están disponibles en línea en <https://cases.ra.kroll.com/puertorico/>.**

Se incluye una **Solicitud de Información** más adelante. De conformidad con los Procedimientos de RAC, el Deudor solicita documentación e información adicionales relacionadas con el Reclamo Designado. Usted debe responder a la Solicitud de Información proporcionando la documentación y la información solicitadas a más tardar en la fecha identificada como Fecha Límite de Respuesta. *Vea* la Sección 2(f) de los Procedimientos de RAC.

Debe responder a esta Solicitud de Información. Debe devolver esta Solicitud de Información a Alvarez and Marsal conjuntamente con **la documentación y la información solicitadas a más tardar en la Fecha Límite de Respuesta mencionada más arriba.**

Solicitud de Información. El Deudor le solicita que proporcione la siguiente información relacionada con la Reclamación Designada núm. **179755** : cualquier documento en respuesta a las solicitudes de documentos, respuestas por escrito a las solicitudes de información y cualquier documento que tenga y que respalde sus respuestas por escrito a las solicitudes de información.

La información sobre las Solicitudes de Información está disponible en la sección 2(f) de los Procedimientos de resolución alternativa de litigios.

Adjunte a este formulario sus respuestas por escrito a las solicitudes de información y la documentación solicitada.

DEBE RESPONDER A LA SOLICITUD DE INFORMACIÓN Y A CUALQUIER OTRA PREGUNTA APLICABLE EN EL RESTO DEL FORMULARIO

SOLICITUDES DE INFORMACIÓN Y DOCUMENTOS

- 1. Por favor proporcione información sobre la base del caso. ¿Qué hechos cree que dieron lugar al caso?**
- 2. Por favor proporcione toda documentación que tenga relacionado con el caso.**
- 3. ¿Cuál es la cantidad que reclamas? Por favor proporcione la base de la cantidad estimada adeuda por sus reclamaciones adicionales.**
- 4.Cuál es el estado actual del caso?**
- 5. ¿Estás representado en cualquiera del caso? Si es así, quien está tu abogado o abogada?**

*Proporcione todos los documentos que respaldan sus respuestas a estas solicitudes de información en relación con su Reclamo Designado. Usted **DEBE** enviar la totalidad de dicha información y documentación a Alvarez and Marsal.*

DEVUELVA SU AVISO COMPLETADO Y CUALQUIER INFORMACIÓN SUPLEMENTARIA EN UNA CONTRAOFERTA PARA EL JUEVES, 20 DE ABRIL DE 2023 A LA SIGUIENTE DIRECCIÓN:

Alvarez and Marsal
C/O Nikki Vander Veen
540 West Madison Street, 18th Floor
Chicago, IL 60661

[Firma del Representate Autorizado
del Reclamante Designado]

Por: _____
[Nombre en letra de molde]

[Firma del Representate Autorizado
del Reclamante Designado]

Por: _____
[Nombre en letra de molde]